

NOTICE OF PROPOSED RULEMAKING
RULES 321, 360, 370, and 371
Maricopa County Air Pollution Control Regulations
PREAMBLE

1.

<u>Rules Affected</u>	<u>Rulemaking Action</u>
Rule 321	Amend
Rule 360	Amend
Rule 370	Amend
Rule 371	Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing and implementing statutes: Arizona Revised Statutes (ARS) § 49-406(G), ARS § 49-479, and ARS § 49-480.

3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Dee Romesburg or Jo Crumbaker, Air Quality Division
Address: 1001 North Central Avenue, Suite #201, Phoenix, AZ 85004
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4. **An explanation of the rules, including the agency's reasons for initiating the rules:**

Maricopa County is proposing to update its incorporations by reference of the following federal regulations: New Source Performance Standards (NSPS); National Emission Standards for Hazardous Air Pollutants (NESHAP); and Acid Rain.

In Rule 321, updates to 40 CFR 60, Subpart WWW, Municipal Solid Waste Landfills, are incorporated as of July 1, 1999. In Rule 360, updates to the federal NSPS regulations are incorporated as of July 1, 1999. In Rule 370, updates to the federal NESHAP regulations are incorporated as of July 1, 1999. In Rule 371, updates to the federal Acid Rain regulations are incorporated as of July 1, 1999.

The Environmental Services Department will be requesting delegation of authority for enforcement of the revisions in Rules 360, 370 and 371 from the U.S. Environmental Protection Agency.

Maricopa County is in compliance with A.R.S. §49-112(A) in that Maricopa County is proposing to adopt revisions to Rules 321, 360, 370, and 371 that are not more stringent than nor are in addition to a provision of A.R.S. Title 49 or rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49.

The Section 112(B) demonstration does not apply because these particular rules are in that portion of Maricopa County's air quality program which is administered under direct statutory authority. Therefore, these rules are not being adopted/revised in lieu of a state program.

A description of the new incorporations by reference follows:

Part 63, Subpart AA - National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants [Added at 64 FR 31358, 06/10/1999]

Part 63, Subpart BB - National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants [Added at 64 FR 31358, 06/10/1999] These actions promulgated NESHAP for new and existing major sources in phosphoric acid manufacturing and phosphate fertilizers production plants (SIC 2874). HAPs emitted by the facilities covered by the rules include hydrogen fluoride (HF); arsenic, beryllium, cadmium, chromium, manganese, mercury, and nickel (HAP metals); and methyl isobutyl ketone. Human exposure to the HAP constituents in these emissions may be associated with adverse carcinogenic, respiratory, nervous system, dermal, developmental, and/or reproductive health effects. Implementation of the rules will achieve an emission reduction of HF estimated at 315 Mg/yr (345 tpy). The standards will reduce 940 Mg/yr (1035 tpy) of total fluorides and particulate matter containing heavy metals which are regulated pollutants under the Clean Air Act as amended.

Part 63, Subpart HH - National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities [Added at 64 FR 32610, 06/17/1999]

Part 63, Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process [Added at 64 FR 34854, 06/29/1999]

Part 63, Subpart TT - National Emission Standards for Equipment Leaks - Control Level 1 [Added at 64 FR 34854, 06/29/1999]

Part 63, Subpart UU - National Emission Standards for Equipment Leaks - Control Level 2 Standards [Added at 64 FR 34854, 06/29/1999]

Part 63, Subpart WW - National Emission Standards for Storage Vessels (Tanks) - Control Level 2 [Added at 64 FR 34854, 06/29/1999]

Part 63, Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards [Added at 64 FR 34854, 06/29/1999] These actions promulgated a consolidated rulemaking proposal published on October 14, 1998. The rule established the "generic MACT standards" program for setting NESHAP under section 112 of the Clean Air Act for certain small source categories consisting of five or fewer major sources. As part of the generic MACT program, EPA established an alternative methodology for making control technology MACT determinations for appropriate small categories by referring to previous MACT standards that have been promulgated for similar sources in other categories. The consolidated rulemaking package included promulgated MACT standards developed within the generic MACT framework for four specific source categories included on EPA's list of categories for which NESHAP are required: acetal resins production, acrylic and modacrylic fiber production, hydrogen fluoride production, and polycarbonate(s) production. The package also promulgated general control requirements for certain types of emission points for HAP, which will be referenced, as appropriate, in MACT requirements for individual source categories. The general control requirements are set forth in new promulgated subparts and are applicable to storage vessels containing organic materials, process vents emitting organic vapors, and leaks from equipment components. In addition, EPA promulgated a separate subpart of requirements for closed vent systems, control devices, recovery devices and routing emissions to fuel gas systems or a process. EPA withdrew proposed process wastewater provisions from the promulgated rule, taking final action separately on those provisions on November 22, 1999.

Part 63, Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants [Added at 64 FR 33202, 06/22/1999] This action promulgated NESHAP for hydrochloric acid process steel

pickling facilities and hydrochloric acid regeneration plants pursuant to section 112 of the Clean Air Act. Major source facilities subject to the rule emit hydrochloric acid (HCl), a HAP. Chronic exposure to HCl has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute inhalation exposure to HCl may cause hoarseness, inflammation and ulceration of the respiratory tract, chest pain, and pulmonary edema. Hydrochloric acid regeneration plants also emit chlorine (Cl₂), which is also a HAP. Acute exposure to high levels of Cl₂ results in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, Cl₂ is a potent irritant to the eyes, the upper respiratory tract, and lungs. The final rule requires new or existing pickling lines that use hydrochloric acid as the primary pickling solution, hydrochloric acid regeneration plants, and acid storage tanks to meet emission standards reflecting application of the maximum achievable control technology (MACT). Implementation of the rule is expected to reduce HAP emissions by more than 2,200 Mg/yr (2,500 tpy) from current levels.

Part 63, Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production [Added at 64 FR 29490, 06/01/1999] This action promulgated NESHAP for new and existing sources in mineral wool production facilities. HAPs emitted by the facilities covered by this rule include carbonyl sulfide (COS), nine hazardous metals, formaldehyde, and phenol. Exposure to these HAPs may be associated with adverse carcinogenic, respiratory, nervous system, dermal, developmental, and/or reproductive health effects. The EPA estimated that the final rule will reduce nationwide emissions of HAPs from these facilities by 46 Mg/yr (51 tpy). In addition, emissions of particulate matter (PM) will be reduced by approximately 186 Mg/yr (205 tpy).

Part 63, Subpart GGG - National Emission Standards for Pharmaceuticals Production [Added at 63 FR 50280, 09/21/1998] This action promulgated NESHAP to reduce air emissions of HAP from existing and new facilities that manufacture pharmaceutical products. The EPA intended that this promulgated rule would have a common technology basis with another rule promulgated on the same date under the Clean Water Act (CWA), to allow coordinated and cost effective compliance planning by the industry. The standards implement section 112 of the Clean Air Act (CAA) as amended in 1990. The standards apply to major source facilities which produce pharmaceutical products.

Part 63, Subpart HHH - National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities [Added at 64 FR 32610, 06/17/1999] These actions promulgated NESHAP to limit emissions of HAP from oil and natural gas production and natural gas transmission and storage facilities. These final rules implement section 112 of the Clean Air Act and are based on the Administrator's determination that oil and natural gas production and natural gas transmission and storage facilities emit HAP identified on the EPA's list of 188 HAPs.

Part 63, Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production [Added at 63 FR 53980, 10/07/1998] This action promulgated NESHAP for new and existing plant sites that manufacture flexible polyurethane foam. The standards were estimated to reduce HAP emissions from all existing sources of flexible polyurethane foam manufacturing by over 12,500 megagrams/year (Mg/yr). This represents a 70% reduction from baseline.

Part 63, Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry [Added at 64 FR 31898, 06/14/1999] This action promulgated NESHAP for new and existing sources in the portland cement manufacturing industry. The action also added Method 320 for the measurement of vapor phase organic and inorganic emissions by extractive Fourier Transform Infrared (FTIR) spectroscopy and Method 321 for the measurement of gaseous hydrogen chloride emissions from portland cement kilns by FTIR spectroscopy to appendix A of part 63. Some of the HAPs released from portland cement manufacturing facilities include, but are not limited to, acetaldehyde, arsenic, benzene, cadmium,

chromium, chlorobenzene, dibenzofurans, formaldehyde, hexane, hydrogen chloride, lead, manganese, mercury, naphthalene, nickel, phenol, polycyclic organic matter, selenium, styrene, 2,3,7,8-tetrachlorodibenzo-p-dioxin, toluene, and xylenes. Exposure to these HAPs can cause reversible or irreversible health effects including carcinogenic, respiratory, nervous system, developmental, reproductive and/or dermal health effects. The EPA estimated that the final rule will reduce nationwide emissions of HAPs from portland cement manufacturing facilities by approximately 82 Mg/yr (90 tpy), and particulate matter (PM) by approximately 4,700 Mg/yr (5,200 tpy). The final rule requires portland cement manufacturing plants to meet emission standards reflecting the application of the maximum achievable control technology (MACT).

Part 63, Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production [Added at 64 FR 33550, 06/23/1999] This action promulgated NESHAP for the pesticide active ingredient (PAI) production source category under section 112 of the Clean Air Act as amended. The intent of the standards is to reduce emissions of HAP from existing and new facilities that manufacture organic PAI used in herbicides, insecticides, and fungicides. The standards protect human health and the environment by reducing HAP emissions to the level corresponding to the maximum achievable control technology (MACT) through the use of pollution prevention measures and control strategies. The major HAP emitted by facilities covered by this rule include toluene, methanol, methyl chloride, and hydrogen chloride (HCl). All of these pollutants can cause reversible or irreversible toxic effects following exposure. The rule is estimated to reduce total HAP emissions from existing facilities by 2,500 Mg/yr (2,755 tpy), a reduction of 65% from the baseline emission level. Because many of these pollutants are also VOC, which are precursors to ambient ozone, the rule will aid in the reduction of tropospheric ozone. EPA's July 16, 1992, source category list included an agricultural chemicals industry group that contained 10 source categories. This rule grouped these 10 agricultural chemicals source categories into one source category, renamed the source category, and added additional chemical production processes to the source category.

Part 63, Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing [Added at 64 FR 31695, 06/14/1999] This action promulgated NESHAP for new and existing sources in wool fiberglass manufacturing facilities. The action also added Method 316 and Method 318 for the measurement of formaldehyde from wool fiberglass manufacturing lines to appendix A of part 63.

Part 63, Subpart PPP - National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production [Added at 64 FR 29420, 06/01/1999] This rule promulgated NESHAP for new and existing plant sites that manufacture polyether polyols. The HAP emitted by the facilities covered by this rule include ethylene oxide, propylene oxide, hexane, toluene, and incidental emissions of several other HAP. Some of these pollutants are considered to be probable human carcinogens when inhaled, and all can cause toxic effects following exposure. The rule was estimated to reduce emissions of these pollutants by 1,810 Mg/yr (2,000 tons per year (tpy)). Because all of the pollutants are also volatile organic compounds (VOC), which are precursors to ambient ozone, the promulgated rule will also aid in the reduction of tropospheric ozone.

Part 63, Subpart TTT - National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting [Added at 64 FR 30194, 06/04/1999] This action promulgated NESHAP for new and existing primary lead smelters pursuant to section 112 of the Clean Air Act as amended in November 1990. Primary lead smelters have been identified by the EPA as significant emitters of lead compounds, and other metal HAPs including arsenic, antimony, and cadmium. Exposure to lead compounds may result in adverse effects on the blood, central nervous system and kidneys. Chronic exposure to arsenic is associated with skin, bladder, liver and lung cancer and other developmental and reproductive effects. This NESHAP requires all primary lead smelters to meet emission standards that reflect the application of maximum achievable control technology (MACT).

Part 63, Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese [Added at 64 FR 27450, 05/20/1999] This action finalized NESHAP for ferroalloys production: ferromanganese and silicomanganese. The rule was proposed under the title of "national emission standards for hazardous air pollutants for ferroalloys production." The EPA changed the title of the final rule to reflect the specific ferroalloy produced (ferromanganese and silicomanganese) at the only existing source to be regulated. The EPA also deleted the proposed applicability to ferrochromium production with this action and withdrew the proposed rule for ferronickel production facilities.

5. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this State:**

Not applicable.

6. **The preliminary summary of the economic, small business, and consumer impact:**

The following finding has been made by the Arizona Department of Environmental Quality (ADEQ) on this rulemaking action, and it also applies to Maricopa County:

Costs

There are no additional costs to the regulated community when a state agency incorporates an already effective federal standard verbatim. The costs of compliance have already occurred, and were considered when the federal regulation was proposed and adopted. These rules impose no additional costs on the regulated community, small businesses, political subdivisions, or members of the public.

Costs to ADEQ are those that may accrue for implementation and enforcement of the new standards. Although there may be some small incremental costs due to this rulemaking, ADEQ does not intend to hire any additional employees to implement or enforce these rules.

Benefits

Benefits accrue to the regulated community when a state agency incorporates a federal regulation in order to become the primary implementer of the regulation, because the state agency is closer to those being regulated and therefore is generally easier to reach and to work with to resolve differences. ADEQ, in addition to being closer to regulated sources, has a Small Business Assistance Program for air quality issues in its Office of Compliance Assistance, which helps in disseminating information and resolving difficulties, compared with the U.S. EPA, whose regional office is in San Francisco. Local implementation also reduces travel and communication costs.

Health benefits accrue to the general public whenever enforcement of environmental laws takes place. Adverse health effects from air pollution result in a number of economic and social consequences, including:

1. Medical costs. These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. Work loss. This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. Increased costs for chores and caregiving. These include special caregiving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all normal chores, and he or she may require caregiving.

4. Other social and economic costs. These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members and others.

Conclusion

In conclusion, the incremental costs associated with this rule are generally low, and apply solely to ADEQ, while the air quality benefits are generally high. In addition, there are benefits to industry from being regulated by a geographically and politically nearer government entity. There are no adverse economic impacts on political subdivisions. There are no adverse economic impacts on private businesses, their revenues or expenditures. The fact that no new employment is expected to occur has been discussed above, in the context of the impact on state agencies. There are no adverse economic impacts on small businesses, although some regulatory benefits will accrue to them. There are no economic impacts for consumers; benefits to private persons as members of the general public are discussed above in terms of better enforcement. There will be no direct impact on state revenues. There are no other, less costly alternatives for achieving the goals of this rulemaking. The rules are no less stringent and no more stringent than the federal regulations on each subject.

Rule impact reduction on small businesses. A.R.S. § 41-1035 requires ADEQ to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. The 5 listed methods are:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

The statutory objectives which are the basis of the rulemaking. The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in number 2 of this preamble. The specific objectives are as follows:

1. Implement rules necessary for EPA delegation of Clean Air Act § 111 (NSPS) program to Arizona.
2. Implement rules necessary for EPA § 112(l) program delegation to Arizona (NESHAP).
3. Implement rules necessary for acid rain program delegation to ADEQ.

ADEQ has determined that there is a beneficial impact on small businesses in transferring implementation of these rules to ADEQ. In addition, for all of these objectives, ADEQ is required to adopt the federal rules without reducing stringency. ADEQ therefore finds that it is not legal or feasible to adopt any of the 5 listed methods to reduce the impact of these rules on small businesses. Finally, where federal rules impact small businesses, EPA is required by both the Regulatory Flexibility Act and the Small Business Regulatory Enforcement and Fairness Act to make certain adjustments in its own rulemakings.

7. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

Public Workshop: Thursday, August 3, 2000, 11:00 a.m.
Maricopa County Environmental Services Department
1001 N. Central Avenue, Suite 560
Phoenix, Arizona 85004

Call 602-506-0169 for current information. Copies of this Notice of Proposed Rulemaking and the draft rules will be available on July 20, 2000 at the offices of the Maricopa County Environmental Services Department, Air Quality Division, 1001 N. Central Ave., #201, Phoenix, Arizona, 85004, Phone 602-506-6794, and on the internet at <http://www.maricopa.gov/sbeap/wkshops.htm>. A sign language interpreter, alternative form materials, or infrared assistive listening devices will be made available at the Public Workshop upon request with 72 hours notice. Additional reasonable accommodations will be made available to the extent possible within the time frame of the request. Requests should be made to 602-506-6794.

8. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:**

Not applicable.

9. **Incorporations by reference and their location in the rules:**

Rule 321 (Municipal Solid Waste Landfills)

40 CFR 60, Subpart WWW Section 301

Rule 360 (New Source Performance Standards)

40 CFR 60, listed subparts Section 301

Rule 370 (Federal Hazardous Air Pollutant Program)

40 CFR 61, listed subparts Section 301

40 CFR 63, listed subparts Section 302

Federal List of Hazardous Air Pollutants Table 1

Rule 371 (Acid Rain)

40 CFR Parts 72, 74, 75, and 76 Section 301

10. **The full text of the draft rules follows:**

Due to the number of rules in this rulemaking package, the draft rules are separate documents.